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10/086206

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

408.014-CON

Anticipated Classification  
of this Application:  
Class: 435 Subclass: 252.3  
Prior Application:  
Examiner: Diana Johannsen  
Art Unit: 1634

Asst. Commissioner for Patents  
Washington, D.C. 20231

SIR:

This is a request for filing a

[ X ] Continuation

application under 37 CFR 1.53

[ ] Divisional

of pending prior Application Serial No. 09/242,588

Filed on: May 20, 1999 Of: Juana Magdalena et al

For: FRAGMENTS OF NUCLEIC ACIDS SPECIFIC TO MYCOBACTERIA WHICH ARE MEMBERS OF THE M. TUBERCULOSIS COMPLEX AND THEIR APPLICATIONS FOR THE DETECTION AND THE DIFFERENTIAL DIAGNOSIS OF MEMBERS OF THE M. TUBERCULOSIS COMPLEX

1. [X] Enclosed is a copy of the prior application, including the oath or declaration as originally filed and an affidavit or declaration verifying it as a true copy. (See 8 and 8a for drawing requirements).

2. [ ] Prepare a copy of the prior application.

3. [X] The Filing fee is calculated below:

CLAIMS AS FILED IN THE PRIOR APPLICATION,  
LESS ANY CLAIMS CANCELLED BY AMENDMENT BELOW

<u>For</u>	<u>Number Filed</u>	<u>Number Filed</u> Excess of 20	<u>Rate</u>	<u>Basic Fee</u> \$740.00
Total Claims	<u>28</u>	<u>8</u>	X \$18.00 =	<u>\$144.00</u>
Independent Claims	<u>5</u>	Excess of 3 <u>2</u>	X \$84.00 =	<u>\$168.00</u>
Multiple dependent claims	[ ] Yes \$280.00 [ ] No			<u>\$1052.00</u>

4. [X] The Asst. Commissioner is hereby authorized to charge any fees which may be required, or to credit any over-payment to Account No. 02-2275. A duplicate copy of this sheet is enclosed.

[ ] I hereby certify that this correspondence is being deposited with the U.S. Postal Service as express mail No. EV 068843455 US in an envelope addressed to the Asst. Commissioner for Patents, Washington, D.C. 20231 on February 28, 2002.

Date: February 28, 2002

  
Charles A. Muserlian # 19,683

5. [X] PTO From 2038 for \$ 1052.00 is enclosed.
6. [X] Cancel in this application original claims 2 to 27 of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes).
7. [ ] Amend the specification by inserting before the first line in the sentence;  
This is a [ ] Continuation, [ ] Division of Serial No.
8. [ ] Transfer the drawings from the prior application as of the filing date accorded this application. A duplicate copy of this sheet is enclosed for filing in the prior application file. (May only be used before payment of base issue fee).
- 8a. [X] New formal drawings are enclosed.
- 8b. [X] Priority of application Serial No. 96/10277  
Filed: August 19, 1996 in France  
is claimed under 35 USC 119.
- 8c. [X] The certified copy has been filed in the prior application Serial No. 242,588 Filed May 20, 1999
9. [X] The prior application is assigned of record to 1) Institut Pasteur De Lille 2) Institut National De La Sante Et De La Recherche Medicale (INSERM)
10. [X] The power of attorney in the prior application is to any one of the following: Jordan B. Bierman, Reg. No. 18,629; Charles A. Muserlian, Reg. No. 19,683; Donald C. Lucas, Reg. No. 31,275; all of 600 Third Avenue, New York, N.Y. 10016; Registration No. 18,818; its attorney to file this Declaration with full power of substitution and revocation and to transact all business in the Patent Office connected therewith.


- a. ☒ The power appears in the original papers of the prior application.
- b. ☐ Since the power does not appear in the original papers, a copy of the power in the prior application is enclosed.
- c. ☒ Recognize as associate attorney and address all future communications to:

Charles A. Muserlian, Reg. No. 19,683  
c/o Bierman, Muserlian and Lucas  
600 Third Avenue  
New York, N.Y. 10016

11. ☒ A preliminary amendment is enclosed. (Claims added by this amendment have been properly numbered consecutively beginning with the number next following the highest numbered original claim in the prior application).
12. ☒ I hereby verify that the attached papers are a true copy of prior application Serial No. 09/242,588 as originally filed on March 20, 1999.

The undersigned declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing thereon.

Date: February 28, 2002

  
Charles A. Muserlian  
Reg. No. 19,683

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600 Third Avenue  
New York, N.Y. 10016

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Date of Deposit: February 28, 2002

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\_\_\_\_\_  
Charles A. Muserlian

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Magdalena, J. et al.  
Serial No. : Group Unit : 1634  
Filed : Concurrently Herewith Examiner : Johannsen, D.  
For : M. TUBERCULOSIS COMPLEX MEMBERS MYCOBACTERIA  
SPECIFIC NUCLEIC ACID FRAGMENTS AND THEIR  
APPLICATIONS FOR THE DETECTION AND DIFFERENTIAL  
DIAGNOSIS OF M. TUBERCULOSIS COMPLEX MEMBERS

RESPONSE TO COMMUNICATION FROM EXAMINER

Assistant Commissioner of Patents  
Washington, D.C. 20231

Dear Sir:

In response to a Communication from the Examiner dated July 31, 2000, applicants provide  
the following amendment and remarks.

IN THE SPECIFICATION

Please amend the specification as follows:

- On page 4, line 33, after "3'" insert --(SEQ ID NO:3)--.
- On page 9, line 31, after "TGC3'" insert --(SEQ ID NO:4)--.
- On page 9, line 31, after "AGC3'" insert --(SEQ ID NO:5)--.
- On page 13, line 18, after "TGC3'" insert --(SEQ ID NO:4)--.
- On page 13, line 18, after "AGC3'" insert --(SEQ ID NO:5)--.
- On page 15, line 36, after "CGC-3'" insert --(SEQ ID NO:6)--.
- On page 16, line 1, after "ACC-3'" insert --(SEQ ID NO:7)--.
- On page 18, line 26, after "GTC-3'" insert --(SEQ ID NO:8)--.
- On page 18, line 27, after "3'" insert --(SEQ ID NO:9)--.
- On page 20, line 5, after "TCA 3'" insert --(SEQ ID NO:10)--.
- On page 20, line 6, after "3'" insert --(SEQ ID NO:11)--.
- On page 21, line 31, after "TGC3'" insert --(SEQ ID NO:4)--.
- On page 21, line 34, after "AGC-3'" insert --(SEQ ID NO:5)--.

IN THE CLAIMS

Please amend the claims as follows:

On page 37, line 35, after "TGC3'" insert --(SEQ ID NO:4)--.

On page 37, line 35, after "AGC3'" insert --(SEQ ID NO:5)--.

REMARKS

Applicants submit herewith a paper copy of a substitute sequence list in response to the Examiner's Communication. Please replace the original sequence list with the substitute sequence list provided herewith. Also enclosed herewith is a computer diskette containing the sequence list. A statement pursuant to 37 CFR §1.825(b) is enclosed, stating that the computer diskette contains an identical sequence list as the paper copy.


No fee is believed due.

Respectfully submitted,

BIERMAN, MUSERLIAN AND LUCAS, L.L.P.

Date: February 28, 2002

By: \_\_\_\_\_

  
Charles A. Muserlian  
Reg. No. 19,683

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